

LUANNA SCOTT, *et al.*,)
))
Plaintiffs,)
))
Vs.) **ORDER**
))
FAMILY DOLLAR STORES, INC.,)
))
Defendant.)
))

“all deadlines in this matter are **STAYED** pending the completion of mediation” and that the parties were to “report the status of the mediation within seven (7) days of its completion.” Id., at ¶¶ 1&2. Based on language of such Order, the running of the deadlines was stayed and the stay automatically lifted on June 1, 2011, the date set by the court for completion of mediation and the date the parties reported to the court that mediation had failed. Thus, the times provided in the Pretrial Order (#78) have now run.

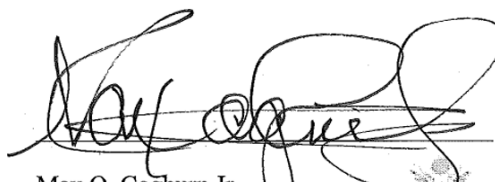
Since June 1, 2011, defendant filed its second Motion to Dismiss and/or Strike Plaintiffs’ Class Claims (#113) and plaintiffs, after responding to the motion, filed their Motion for Leave to File First Amended Complaint (#120). The Reply to the response to the Motion to Dismiss is due to be filed by November 7, 2011, and the response to the Motion for Leave to File First Amended Complaint is due November 17, 2011. The court notes that no explanation is given in the motion seeking leave to amend as to why plaintiffs did not avail themselves of the unilateral amendment provisions of Rule 15(a)(1)(B), Federal Rules of Civil Procedure, within 21 days after service of the Rule 12(f) motion. See Fed.R.Civ.P. 15(a)(1)(B)

While motions to dismiss are routinely referred to magistrate judges for resolution, the age of this case suggests that this court hear and decide the motion. The court will, therefore, set the Motion to Dismiss and Motion for Leave to Amend on for hearing November 22, 2011, at 10 a.m. Due to the press of time, the reply to the response to the Motion for Leave to Amend will be suspended. Even though the deadlines provided in the Pretrial Order have likely run, the court will also address the pretrial needs of this case with the understanding that the remaining life of this 2008 case is now to be measured in months, not years, and that this case will be tried or otherwise resolved by early 2012.

ORDER

IT IS, THEREFORE, ORDERED that the referral of defendant's Motion to Dismiss and/or Strike Plaintiffs' Class Claims (#113) and plaintiffs' Motion for Leave to File First Amended Complaint (#120) is **REMOVED**, and that such motions are **CALENDARED** for hearing on November 22, 2011, at 10 a.m.

Signed: November 1, 2011



Max O. Cogburn Jr.
United States District Judge